

**C002737 ABSTRACT:** The authors sought information on the number, structure, and effectiveness of programs aimed at diverting inmates with mental illnesses from the criminal justice system into the mental health treatment system. Mail surveys were distributed to 1,263 U.S. jails with a capacity of 50 or more detainees to ascertain the presence or absence of diversion programs. Results indicated that only 52 U.S. jails with this capacity had formal mental health diversion programs. Programs in larger jails served fewer violent felons than did those in smaller jails, and only a small number of the jails had diversion programs for detainees with serious mental illnesses. In addition, the findings indicated a dearth of objective data on the effectiveness of the programs represented in the survey. The authors contend that systematic evaluations are needed to determine what types of programs work best for which type of detainees (authors).

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**Authors** Steadman, H.J., Barbera, S., Dennis, D.L.

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# A National Survey of Jail Diversion Programs for Mentally Ill Detainees

Henry J. Steadman, Ph.D.  
Sharon Steadman Barbera,  
B.A.  
Deborah L. Dennis, M.A.

**Objective:** The authors sought information on the number, structure, and effectiveness of programs aimed at diverting mentally ill inmates from the criminal justice system into the mental health treatment system. **Methods:** A working definition of a jail diversion program was developed. Mail surveys were distributed to 1,263 U.S. jails with a capacity of 50 or more detainees to ascertain the presence or absence of diversion programs. Telephone interviews with samples of respondents and nonrespondents to the mail survey yielded additional information about the programs' operation, funding, staffing, and directors' perceptions of their effectiveness. **Results:** Information obtained from the mail and telephone surveys indicated that only 52 U.S. jails with a capacity of 50 or more detainees had formal mental health diversion programs that fit the definition developed by the authors. Programs in larger jails served fewer violent felons than did those in smaller jails. Three-fourths of the programs were located in mental health agencies. Two-thirds of program directors

*considered the programs to be moderately or very effective. Conclusions: Only a small number of U.S. jails have diversion programs for mentally ill detainees, and objective data on their effectiveness are lacking. Systematic evaluations are needed to determine what types of programs work best for which types of detainees.*

In a recent report by Torrey and colleagues (1) on the abuses of mentally ill persons in local jails, a key recommendation was that jail diversion programs should be set up to minimize the number of individuals with serious mental illness who end up in jail.

This recommendation was not a new one. Diversion programs were a cornerstone of the advocacy activities of the National Coalition for Jail Reform throughout the 1970s and 1980s (2). Now they are considered one of the primary responses needed to deal with mentally ill detainees in jails (3-6). It is commonly believed that by working with other community resources, the judiciary, and existing mental health programs, jails can successfully divert mentally ill offenders who have committed misdemeanors and possibly even non-violent felons from long detention. However, persons with severe mental illness who have committed violent offenses are not usually candidates for such efforts.

A fact sheet prepared by the National Association of Counties concluded that "jail is not appropriate treatment for people who commit minor offenses because they are mentally ill. Such people need to be diverted from jail to a continuum of services which include crisis intervention, outreach, residential, voca-

tional training, family support, case management and other support services" (7).

This widespread enthusiasm for jail diversion programs has generally been uncritical. Even exemplary programs rarely have evaluation data available. The "exemplary" designation is usually based on positive but unsystematic observations and verbal reports. The Torrey report recognized this situation, noting that "knowledge about the comparative effectiveness of alternate approaches to jail diversion is insufficient at this time to promote one approach over another" (1).

However, before proceeding to conduct the badly needed controlled studies of relative effectiveness, some research was appropriate. When one examines the programs listed in the various compendiums of "exemplary," "model," or "effective" programs (1,2,7,8), considerable overlap is found. This overlap can be explained by three factors: there are not many diversion programs; even fewer programs are clearly recognizable as high-quality programs; and the same people are called by the compendium authors to nominate programs worthy of inclusion, and they keep suggesting the same programs. The overlap is most likely due to a combination of all three of these factors rather than any one of them.

Our purpose here is to move toward a sounder footing by reporting on a national survey of jails with a maximum approved capacity of more than 50 detainees. We sought to identify jails that have what they consider to be diversion programs and to interview program administrators and staff to determine whether, by some objective criteria, these

Dr. Steadman is president of Policy Research Associates, Inc., 262 Delaware Avenue, Delmar, New York 12054. Ms. Barbera is in the department of psychology at the University of Texas at Austin. Ms. Dennis is senior research associate at Policy Research Associates.

programs really are diversion programs.

These efforts are logical precursors to full-scale program evaluations. The data generated will be useful for categorizing program types for study, for enabling an appropriate sample of programs to be drawn for rigorous study, and for identifying the basic principles associated with programs that were viewed as successful by their staff. This report focuses on the first two of these goals. Data on principles associated with perceived effectiveness will be presented in a subsequent report.

### Defining diversion

A major problem in moving toward more empirical assessments of diversion programs is that the term has been used to describe a wide variety of programs, ranging from efforts by the police in lieu of arrest, to admission and booking procedures at the jail, to in-jail treatment, and even sentencing alternatives. It is difficult to know exactly what is meant when someone speaks of jail diversion.

To correctional administrators, mental health diversion usually means any transfer for mental health services that removes detainees from their jail. The transfer may be for an evaluation of competency to stand trial, an assessment of criminal responsibility, an admission to a locked inpatient unit in a nearby mental health center, or an outright release through some type of court action stipulating community-based mental health treatment.

To mental health professionals who provide services to jail detainees, diversion may mean evaluations for competency or criminal responsibility, but more often it refers to some type of mental health intervention that prevents the detention of a person with severe mental illness in a jail or a mental health intervention that places a detainee in the community in lieu of incarceration. This interpretation is generally shared by family members, consumers, and various types of advocacy groups concerned with the plight of persons with severe mental illness in the criminal justice system.

Although mental health profes-

sionals, consumers, and family members most often use the term in fairly similar ways, they all are often vague about the disposition of the criminal charges for diverted detainees and at what point in the criminal justice process they see diversion as occurring. Is it diversion if criminal charges are pending but the setting and meeting of bail is facilitated so that defendants spend their pretrial time in the community rather than in jail? Is it diversion if a plea bargain is negotiated that requires community-based mental health treatment as a condition of probation? Is it diversion if police bring a person to the emergency room instead of booking him or her at the jail on some minor crime? Are all of these situations diversion?

Faced with these questions in the context of developing a national survey of jail diversion programs, we created a working definition that we believe is useful in conceptualizing, planning, and researching jail diversion programs for mentally ill offenders. Because we were focusing on diversion after arrest, which occurs either in the courts or jails, police diversion programs were not considered. They were excluded because an entirely different research methodology is required to identify them, and both types of programs could not be included within the resources of this project. Obviously, we do not intend to imply that one type of diversion program is more important than another. Both types are badly needed.

We defined jail diversion programs as specific (formal or informal) programs that *screen* defined groups of detainees for the presence of mental disorder; use mental health professionals to *evaluate* all those detainees identified in the screening; and *negotiate* with prosecutors, defense attorneys, community-based mental health providers, and the courts to produce a mental health disposition outside the jail in lieu of prosecution or as a condition of a reduction in charges (whether or not a formal conviction occurs).

That was the working definition we used in beginning our research. Early on, however, we encountered two situations in which the defini-

tion was problematic. The first arose from the tendency of correctional staff members to view referral for forensic evaluation as diversion. We decided that although such transfers did remove the detainee from jail, they were not diversion in the sense perceived by advocates, mental health professionals, policymakers, and researchers.

The core idea of diversion among these groups is the removal of the mentally ill detainee from jail to receive appropriate treatment in community-based services. Simply removing a detainee from jail to a forensic evaluation facility with eventual return to jail is not really diversion. Rarely, if ever, do such transfers involve community-based services. State forensic mental health services certainly did not meet these criteria.

The second situation that our working definition did not fit was when a detainee was allowed to await trial in the community rather than in jail because a diversion program arranged a deal with the court to assure mental health treatment and a stable residence pending trial. In such cases, detainees were screened to identify those who were appropriate candidates for diversion and evaluated to determine their mental health treatment needs; negotiations with the court system also occurred. However, the charges remained alive. There was no plea bargain and no reduction of charges, even though the defendant was released from jail and offered mental health services. Jail time, albeit pretrial, was often substantially reduced. Accordingly, we expanded our definition to include programs that focused, all or in part, on the reduction of pretrial jail time and met all other criteria in our definition.

We have devoted considerable space to definitions simply because the vast majority of the diversion literature ignores them. With the definition duly noted, we move to our survey data.

### Methods

Data on jail diversion programs were collected in two phases, a mail survey and telephone interviews. The mail survey was completed in May 1992. Its primary goal was twofold: to as-

certain the presence or absence of diversion programs and services that could be more extensively probed in the second phase of the research and to develop a national profile of diversion services.

The survey form contained 16 items printed on both sides of a single sheet; it was kept short to ensure an adequate response rate. The form was distributed to 1,263 jails identified by the American Jail Association as having a capacity of 50 or more inmates. This minimum size was chosen because smaller jails are not likely to have specific diversion programs; their efforts at diversion are ad hoc when cases occur.

Responses were received from 760 jails. Twenty-nine of the respondents indicated that the survey was not applicable to their facility because they housed only sentenced offenders, and diversion was not done with this population. A subsequent review revealed that 82 other jails surveyed also appeared to serve only sentenced offenders and were inappropriately included in the original mailing. Accordingly, these 111 jails were dropped from the sampling frame. An additional 46 responses were dropped from our database for a variety of reasons, such as multiple responses from one jurisdiction. These adjustments resulted in a final data set consisting of 685 responses from 1,106 eligible jails, or a response rate of 62 percent.

The second phase of the study consisted of telephone interviews with the directors of mental health diversion programs who responded to the survey. A three-by-two table was used to draw the sample for the interviews. The table classified jails by size (small, with 50 to 249 detainees, and large, with 250 or more) and type of diversion program (pre-arrest, postarrest, or both). A stratified random sample of half of the jails in each cell was selected for the telephone survey.

The telephone interviews were conducted by research staff at Policy Research Associates between July and October 1992. If the program did not have a specific director, the person most familiar with the diversion process was interviewed. The

purpose of the interview was to gain a broad understanding of how the diversion program actually was set up and operated, whom it served, how it was funded and staffed, and with whom it had regular contact. In addition to a program description, the interview also obtained information on the perceived effectiveness of the diversion program and the broader range of mental health services provided in the jail.

The first section of the interview focused on whether the diversion services provided by the jail fit our definition of diversion. If the services were determined not to be diversion programs of the type we were investigating, the interview was terminated. If the jail's services did fit our definition, we continued the interview, which took approximately 30 minutes to complete. Two five-minute telephone interviews were then conducted, one with a jail administrator and one with a mental health contact outside the jail involved with the diversion program, to confirm and obtain some basic background information on the jail and the mental health services in the county, as well as their assessment of the diversion program's effectiveness.

The mail survey form was completed over the telephone with 10 percent (N=45) of the nonrespondents to the mail survey, who were randomly selected. The purpose of the survey was to ascertain whether nonrespondents selected themselves out of the sample because they did not have diversion programs or whether their mental health services were qualitatively different from those of the respondents.

## Results

**Number of programs.** Responses to the mail survey were received from all 50 states and the District of Columbia. The capacity of the responding jails ranged from 50 to 9,997 detainees. A total of 230 respondents, or 34 percent, indicated that they had a formal diversion program for mentally ill detainees.

From our 50 percent telephone sample of these jails (N=115), we determined that only 21 of the jails (18 percent) actually had a specific diver-

sion program that fit our definition. Programs were removed from the sample if they did not target mentally ill offenders, as was the case with 11 percent of the programs.

Programs were also removed from the sample if diversion did not include disposition outside jail (37 percent), if they were police-based programs (4 percent), if they did not include negotiation with the criminal justice system (26 percent), or if diversion did not result in charges being dropped or the sentence being reduced or suspended (38 percent). (Percentages total more than 100 because multiple responses were allowed.) Six programs were also disqualified on the basis of other circumstances, such as having been discontinued. This left only 21 programs from the 115 randomly selected programs (18 percent) that fit our definition of diversion and that were given the full interview in the second phase of the study.

When these figures are applied to the 1,106 U.S. jails that have a capacity of more than 50 inmates and that house pretrial detainees, they indicate that only about 68 mental health diversion programs exist in jails of this size in the United States (18 percent of 34 percent  $\times$  1,106). In fact, we believe that the actual number is less than 68, because we suspect that there was a much stronger tendency among the 1,106 jail program directors surveyed to respond to the survey if they thought they had a mental health diversion program than if they did not. Thus the 34 percent figure for jails claiming to have a mental health diversion program among our 685 responding jails is higher than for the 421 nonresponding jails.

Our estimate of the proportion of nonresponding jails with mental health diversion programs is based on our telephone survey of 45 nonresponding jails. Among these jails, only 13 percent reported having a mental health diversion program. Applying that figure to the 421 nonresponding jails would mean that there are approximately 52 formal mental health diversion programs in the 1,106 U.S. jails with a capacity of more than 50 inmates that house

pretrial detainees (685 respondent jails × 34 percent claiming a diversion program × 18 percent actually having a diversion program + 421 nonresponding jails × 13 percent estimated to have a diversion program × 18 percent actually having a diversion program).

**Program structure.** All 21 diversion programs identified in the telephone surveys served misdemeanor offenders. However, 15 of the programs also served nonviolent felons, and ten served some violent felons. Programs in the larger jails served fewer violent felons than did those in smaller jails. Small-jail diversion programs worked with a more diverse population out of necessity; they did not have the volume of offenders to select the subset with whom they wish to work. To justify running some sort of diversion program, they could not exclude more than a few people without losing the critical mass needed for funding and popular support. As a result, they seemed to exclude only the most serious offenders.

Most programs were funded by either the county mental health department (40 percent) or by the state (35 percent). Three-fourths of the programs were located in mental health agencies. Fifteen percent had no staff specifically assigned to them. There was an even distribution of prearrest, postarrest, and combination programs.

The vast majority of the programs (85 percent) had staff members specifically assigned to them, although in seven of the 21 programs, most staff members worked part time. The issue of whether staff were specifically assigned to a program was often unclear. Agencies interpreted "assigned" to mean different things, such as whether the position was funded to do diversion or whether the position was included in a formal agreement.

Other agencies, especially in less populous areas, looked at the staffing issue much more informally, in terms of who worked with the jail population on a regular basis. In many cases only one or two people were assigned to do any diversion

work, many without receiving specific compensation for doing so, but informally many people combined efforts to divert mentally ill detainees. Also, staff members in other agencies might be assigned to work specifically with mentally ill detainees, such as special probation officers or public defenders. Some agencies included these people as part of the program, whereas some did not list them as staff specifically assigned. Probe questions were used during the interview to determine who was expected to work on a regular basis on diverting mentally ill detainees, regardless of funding issues.

**Perceived effectiveness.** Staff ratings of the overall effectiveness of their programs were evenly split. Program directors rated 30 percent of the programs as somewhat effective, 35 percent as moderately effective, and 35 percent as very effective. The two main reasons for lower effectiveness ratings were high detainee recidivism rates and difficulties in negotiating within the jail to arrange for a diversion strategy.

The program directors who did not respond to the mail survey but who were reached through telephone follow-up had a much greater tendency to polarize their ratings; they were more likely to rate their jail's overall mental health program as not at all effective (36.8 percent versus 3.3 percent for those who responded to the mail survey). They were also more likely to rate the overall mental health program as very effective (39.5 percent versus 14.9 percent who responded to the mail survey). Again, this polarization demonstrates a lower likelihood that many quality diversion programs were missed as a result of response biases in the mail survey because directors who thought highly of their programs were more likely to respond.

### Discussion and conclusions

Despite the apparent need for alternatives to incarceration for persons with severe mental illnesses, there were not even as many diversion programs for this population as jail administrators claimed. Although one-third of the jail administrators said that they had a diversion program,

on further investigation four-fifths of these programs did not meet our definition of jail diversion for mentally ill offenders. Thus we estimate that only about 52 jail diversion programs for mentally ill offenders exist nationwide.

Although the mental health system is often criticized for neglecting its responsibility to persons with severe mental illnesses in the community, diversion of mentally ill offenders—when it occurs—tends to be funded and carried out by mental health agencies. Three-quarters of all jail diversion programs for mentally ill offenders were funded by state or county mental health authorities, and three-quarters of all programs were based in mental health agencies. Whether the program was a formal one focused specifically on mentally ill offenders or an informal one offering mentally ill offenders the same services available to all persons with severe mental illness in the community, these agencies had made a commitment to serving clients no matter where they were. The problem is just that there are very few of these programs.

It is also important to note that in addition to serving misdemeanants, three-quarters of the jail diversion programs that did exist served nonviolent felons and half served some violent felons. It was surprising to find that diversion programs serving smaller jails were more likely to work with violent and nonviolent felons than were programs serving larger populations. With a greater demand on their services, programs serving larger jails were more selective in the clients they served. What is unclear is how these different types of offenders fared in diversion programs. Finally, two-thirds of the program directors interviewed reported their diversion services to be "moderately effective" to "very effective."

In the final phase of our research, 18 site visits were made to develop independent judgments on the effectiveness of some key diversion programs. These data are now being analyzed to develop principles about which organizational, clinical, and political factors are most often asso-

ciated with programs that are seen as effective. These data will also address how diversion programs differ depending on the size of the jail, the way in which the local mental health system is organized and financed, and other important factors.

Although the site visit data will provide useful information to guide the efforts of those who want to develop similar programs in other localities, they are only an interim step. Ultimately, the effective design and operation of jail mental health diversion programs requires controlled, systematic evaluations to determine what types of programs work most effectively in what types of communities for which groups of detainees.

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